

Plaintiff Realtime Data, LLC d/b/a/ IXO (“Realtime”), hereby moves for leave to supplement the record regarding the pending Markman claim construction motions with Exhibits 1-11 to the May 15, 2012 Declaration of Daniel J. Melman, filed herewith.¹

During the Court’s Markman hearing, Defendants’ counsel for the first time stated that FAST was a *lossy* compression technique. (Hr. Tr. at 274-80). No Defendant had ever previously made that assertion, which related to the definition of “lossless” and the discussion regarding whether “stop-bit” encoding is a *lossless* or a *lossy* compression technique. Exhibits 1-4 are exemplary publications in the field of data compression that clearly describe the process of stop-bit encoding (called “variable byte” encoding in these publications) as a *lossless* compression technique notwithstanding that unused bytes are not encoded or transmitted with the compressed data in that technique. Realtime has highlighted the relevant portions of each publication for the Court’s convenience, and respectfully directs the Court’s attention to its video tutorial (Chapter: Fast Format Development (Part 2) at 1:18-2:35) where the process called stop-bit encoding is explained. That process is the *exact* same compression process described in the attached publications where it is termed “variable byte” encoding/ compression.

In addition, during Defendants’ discussion and argument on the “data-stream” claim term, they presented a slide (no. 4) that identified nine (9) declarations submitted by Realtime in various ones of the reexamination proceedings. Defendants alleged that in each such declaration the definition of the term “data stream” was argued to match their proposed definition of that term, which allegation Realtime contests. However, Defendants only provided the Court with selected *portions* of six of those declarations. Realtime submits herewith as Exhibit 6-11 *complete* copies of those declarations along with a demonstrative aid (Exhibit 5) identifying the

¹ References to “Exhibits__” herein refer to the identified exhibit in the May 15, 2012 Declaration of Daniel J. Melman.

paragraphs in each declaration where an actual *definition* of “data stream” was presented. *See* Federal Rules of Evidence Rules 106, 1006.

Accordingly, Realtime respectfully requests that the record regarding the pending Markman claim construction motions be supplemented to include Exhibits 1-11 to the May 15, 2012 Declaration of Daniel J. Melman, filed herewith.

DATED: May 15, 2012

RESPECTFULLY SUBMITTED,

McKool Smith, P.C.

/s/ Dirk D. Thomas

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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing document were served via email to all counsel of record on May 15, 2012.

/s/ Daniel J. Melman
Daniel J. Melman